

## **Battle Creek City Planning Commission**

### **Staff report for the April 25, 2012 Meeting**

**To:** Planning Commissioners

**From:** Christine M. Hilton, AICP, Planning Supervisor  
Planning and Community Development Department

**Subject:** Petition S-04-12, a Special Use Permit request to allow a Beauty Salon/Day Spa at 335 W. Territorial Road. Parcel #0064-00-010-0

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#### **Summary**

A petition from Ms. Jolene M. Lussier, 335 W. Territorial Rd., Battle Creek, MI 49015 requesting a Special Use Permit to allow a Home Salon and Day Spa at that address, as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290(b)(30).

#### **Background/Property Information**

The subject site is located on the south side of Territorial Road, two blocks west of Capital Avenue S.W. The parcel is 1.82 acres in size with 290' feet of frontage along W. Territorial Road, 272' of frontage along Foster Avenue, and 290' of frontage along Fairfield Avenue.





The residential building on this property is a two-story brick Italianate structure that city assessing records indicate was built in 1856. The 4,700 s.f structure had previously been used as a residence through 1973, and then a photographer studio, architecture

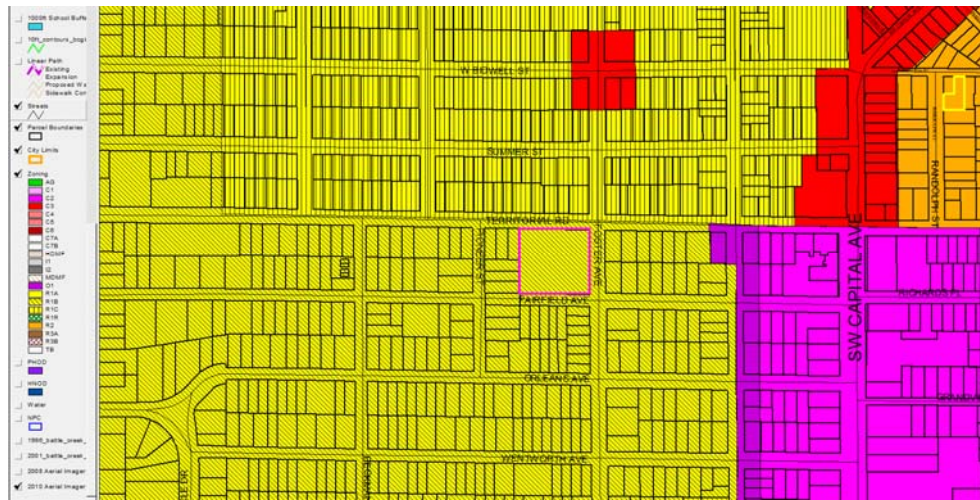


office, and more recently as an adult foster care facility. The property contains a parking lot (approximately fifteen spaces) to meet needs of the commercial use of this property. Records indicate the property was vacant in 2009 and subsequently occupied as single family in 2010. The legal nonconforming commercial use of this property was lost when the property was occupied for residential purposes in conformance with the R-1B Single Family Residential zoning district.

### **Surrounding Land Uses / Zoning**

The subject property as well as surrounding properties are zoned R-1B Single Family Residential. The property is surrounded with residential uses consistent with the zoning district in which they are placed, though there are a few mixed use properties along W. Territorial including a podiatrist and a chiropractor's office.





### **Proposed Scope of Project**

Ms. Lussier has purchased the property on land contract and is occupying the upper floor of the structure as her residence. She is requesting a special use permit to operate a beauty salon and day spa on the main floor. She is proposing the business to be open between 10am and 8pm at night, Monday – Saturday. The total number of employees for the business would be up to a total of ten, but due to space considerations and scheduling will likely not be more than six at a time, though three to four onsite at a time would be typical.

Ms. Lussier has already started making improvements to the structure and the property. The existing parking lot will be sufficient for the intended beauty salon/day spa use, though it will be repaved in the future. The existing sign (15 s.f., 7.5 in height) along W. Territorial will be replaced and re-landscaped.

### **Applicable Ordinance Provisions**

Hair salons/day spas are permitted by right in all commercial zoning districts in the City. They would also be allowed as a home occupation in residential properties in accordance with Ch. 1292 of the zoning ordinance, but these provisions only allow the occupant of a property to have a home occupation and would not allow additional employees.

In other zoning districts throughout the City salons are permitted by special use permit as provided for in City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(30): *“Beauty shops or barber shops, when located on a major street, and only when all of the off-street parking spaces meeting the requirements of 1284.01(16) can be accommodated entirely within the rear yard of the premises containing the structure used as a beauty shop or barber shop.”*

The subject property is located on a major street. The parking could be accommodated in the rear yard as required by ordinance; however with approval of this special use permit the applicant will be allowed to use the existing legal nonconforming parking lot on the property.

### **Public Hearing and Notice Requirements**

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shoppers Guide on Thursday, April 5, 2012 and notices of the public hearing were also sent by regular mail on April 3, 2012 to 109 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any correspondence or contract relative to the request.

### **Neighborhood Outreach**

The petitioner attended the March 8, 2012 meeting of Neighborhood Planning Council #3, and their request for a special use permit has been unanimously endorsed by that group. A copy of their approval letter is included with this staff report.

### **Basis For Determination**

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

- (h) The use will be consistent with the intent and purpose of this Zoning Code.

**Analysis and Recommendation**

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan in that the approval of this special use permit will allow the expansion of a business in the community (pg. 4-1) while utilizing a vacant and historic building (pg. 4-12). The approval of the special use permit will allow for a mixed use project (residential/business) that will exist in an appropriate manner for the property and neighborhood (4-3, 4-10).
- (b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use is similar in nature to the previous and historic use of the property, a light intensity use that will take place primarily within the building. Additionally, there will be no extensive changes to the property or the exterior of the building which would be a detriment to surrounding properties.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is generally passive in nature, with variable hours of operation that generally occur during the daytime and early evening.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure will become occupied and improvements made to stabilize the property and those in the vicinity.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.
- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services.
- (g) Because of the nature of the use, and relevant State regulations concerning such a use, there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance.

**Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City**

**Commission approval of Special Use Permit Petition S-04-12 that would allow a salon/spa as discussed herein, on Parcel #0064-00-010-0 with the following conditions:**

- a. The on-site parking lot must be striped prior to its use. A parking lot striping plan for the on-site parking lot shall be submitted to the Planning Department for review and approval. The location of the driveway shall continue to be in the current location on Foster Avenue and W. Territorial Road.
- b. The sign along W. Territorial may be replaced in its current location providing it is not larger, nor taller, than the sign that currently exists.
- c. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.
- d. The approval of the special use permit is based upon the contents of the submitted application and this staff report. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.
- e. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.
- f. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

**Attachments**

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-04-12)

# PETITION FOR A SPECIAL USE PERMIT



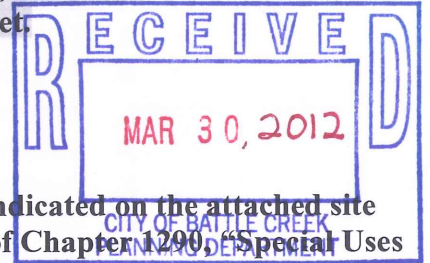
## City of Battle Creek, Michigan

### Department of Planning and Community Development

Petition No. S-04-12

Please read instruction on reverse before completing this form.

If additional space is required, attach a separate sheet.



The City Commission of the City of Battle Creek, Michigan

Honorable Mayor and City Commissioners:

I / We, the undersigned owner(s) of the property described below and indicated on the attached site plan, do hereby petition for a Special Use Permit under the provisions of Chapter 1290, "Special Uses and Land Development", of the Planning and Zoning Code of the City of Battle Creek, to permit this property to be used exclusively as indicated below.

Legal Description of Property: see attached.

Present Use of Property:

Home / salon

Proposed Use of Property:

Home / salon day spa with hairdresser  
other than me. Replace existing sign.

Reasons why petitioner feels that a Special Use Permit should be granted:

This property has been used as a business since  
1972. Photography studio, poster care, daycare.

Present Zoning Classification: Residential D District.

Property Owner(s) ☒ or Agent (Check one)

Name Jolene M. Lussier

Address 335 W. Territorial, 49015

Telephone 269-274-9568

Fax

Signature Jolene M. Lussier

Name

Address

Telephone

Fax

Signature

#### FOR OFFICE USE ONLY

Date Petition Received: March 30, 2012

Petition Fee Received: \$600.00

Received By: Lema A. Parrish

Planning Commission Recommendation:

Approve ☐ Deny ☐ Date

City Commission Action:

Approve ☐ Deny ☐ Date

Resolution No. \_\_\_\_\_



3-30-12

This property was in need of painting & looked very overgrown & neglected. I have cleaned & painted for a year my NPC had a unanimous vote for the salon & asked me to be on the council! My neighbors have come over to thank me for making it beautiful again! I have done business for over 20 yrs in Bottle Creek (Real Estate prior to hair.) I am of good character & proud to be a Bottle Creek resident for 40 years!

Thank you for considering my request.

Jolene M. Lussier  
owner.

JOLENE salon and day  
spa LLC

269-274-9568



Free back

W TERRITORIAL RD

to be resurfaced or replaced



#335

Ornamental grasses

Rose of Sharon bushes

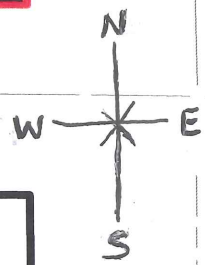
current parking lot

new building

existing sign

FAIRFIELD AVE

FOSTER AVE





Neighborhood Planning Council #3  
City of Battle Creek

April 9, 2012

Battle Creek City Planning Commission  
10 North Division  
Battle Creek, MI 49016

Dear Planning Commission:

Be it hereby known, by a unanimous vote from the Members of Neighborhood Planning Council #3 on March 8, 2012, that we are expressing our support for the following:

The application of Jolene Lussier for a hair salon at 355 West Territorial Road, Battle Creek, MI 49015

The vote of support for this special use permit was unanimous with Vice Mayor Fulton abstaining.

Thank-you for your consideration.

Sincerely,

Joel E. Fulton  
Chairman

Tim Conlogue  
Vice Chairman